

#### **61G4-20.001 Local Disciplinary Actions.**

(1)(a) In order for a local government to issue local licenses or certificates of competency, and before the Board will issue registrations for contractors defined in Section 489.105(3)(a)-(o), F.S., the local government shall have identified a local government body having the authority to discipline such contractors in the manner described in s. 489.131(7), F.S., for violations set forth in Section 489.129(1), F.S., or the local governing ordinance.

(b) The membership of such local government body having the authority to discipline state registered contractors shall, whenever practical, include at a minimum an architect, a business person, an engineer, and at least one contractor who is registered or certified under Sections 489.105(3)(a)-(c), F.S., and one contractor who is registered or certified under Sections 489.105(3)(d)-(o), F.S.

(2) Disciplinary actions taken against such locally licensed contractors shall provide due process protections consistent with the Florida and United States Constitutions, including at a minimum: notice to the contractor of the charges against the contractor by personal service, certified mail, or notice by publication in accordance with Section 120.60(7), F.S. (1995); notice of any action being considered against the contractor; and notice of an opportunity for the complainant and the contractor to present evidence and testimony on his or her behalf. If the local government body does not preserve testimony given at its disciplinary hearings, it shall advise the contractor in the notice of the hearing that he or she must make his or her own arrangements to preserve the testimony given at the hearing.

(3) Orders imposing disciplinary action against a contractor shall contain, at a minimum, the following:

- (a) A clear statement of the violations charged;
- (b) A clear statement of the factual basis for the charges;
- (c) Evidence that the contractor was given notice of the charges, and of an opportunity to appear and present evidence and testimony regarding the charges;
- (d) Findings of fact made by the disciplinary authority;
- (e) Conclusions of law which demonstrate that the facts alleged constitute violations of Section 489.129(1), F.S., or of the governing local ordinance;
- (f) A statement of the penalty and any reasonable investigative and legal costs imposed against the local license or certificate of competence;
- (g) A recommendation by the local government body to the Construction Industry Licensing Board for action to be taken against the state registration;
- (h) A clear statement informing the contractor of the right to appeal the action against the local license, and of the right of the contractor to challenge the recommendation to the Construction Industry Licensing Board.

(4) The local government recommendation to the board, for purposes of any challenge to said recommendation, shall be considered to have been issued upon receipt by the board. Recommendations by local government bodies and challenges shall be mailed to: Executive Director, Florida Construction Industry Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399-1039. The local government body shall submit copies of the following documents to the Construction Industry Licensing Board along with the recommendation:

- (a) The Administrative Complaint;
- (b) Minutes or a transcript of the hearing;
- (c) Any exhibits considered by the local government body; and
- (d) If a challenge is filed, upon request of the Board or the Department, proof of service, or, if not perfected, proof of attempts to obtain service.

(5) In order to facilitate the process established by this rule all local governments who intend to engage in the disciplinary process are encouraged to use the sample formats for Administrative Complaints and Orders provided by the Board.

(6) Submission of a resolution or ordinance from the appropriate City Council, County Commission or appropriate governing body stating that the procedures established in this rule shall be utilized by the local licensing body along with the utilization of the sample administrative complaint and order forms referenced above shall be considered prima facie evidence of compliance with the requirements of Sections 489.117(2) and 489.131(7), (10), F.S.

(7) For purposes of this rule, "reasonable investigative and legal costs" shall include the cost of any consultation with

an expert witness for the prosecution of the violation.

(8) Orders imposing disciplinary action against a contractor that do not contain the minimum items, terms, or conditions set out in subparagraph (3)(a)-(h) and (4)(a)-(d) above shall be reviewed by Board staff, and the following actions shall be taken:

(a) Contact the local jurisdiction to obtain any attachments required under paragraphs (4)(a)-(d) above which were omitted;

(b) Route local disciplinary orders to the designated processing point for prosecutor review upon receipt of the required attachments; and

(c) Provide a copy of those local jurisdiction orders to the Board counsel and prosecuting attorney.

(9) Local orders imposing disciplinary action on certified contractors shall be forwarded to the appropriate consumer complaints analyst as an attachment to a uniform complaint form.

*Specific Authority 120, 489.108, 489.113, 489.117 FS. Law Implemented 489.117(2), 489.131 FS. History—New 5-23-94, Amended 10-17-96, 4-27-99.*